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THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1987

JULY 17 (legislative day, JUNE 23), 1987.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1417]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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I. SUMMARY OF THE BILL

The Developmental Disabilities Assistance and Bill of Rights Act (the Act) has four components: the basic State grant program; the protection and advocacy systems; the university affiliated programs; and special projects.

S. 1417, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 (the bill), reaffirms the thrust of the basic State grant program and includes several amendments that clarify and strengthen the program. The findings section of the bill focuses on the capabilities, competencies, and preferences

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as well as the needs of persons with developmental disabilities and emphasizes the important role the family and members of the community can play in enhancing the lives of persons with developmental disabilities, especially when necessary support services are provided.

The bill also clarifies and strengthens the independence of the State Planning Councils to carry out their advocacy role under the Act and refocuses the activities the Councils may fund to include policy analyses and other activities that are most likely to have a positive impact on the greatest numbers of persons with developmental disabilities. The bill also amends the State plan to require States to take a hard look at how they are meeting the needs of persons with developmental disabilities attributable to a physical impairment, a mental impairment, or a combination of physical and mental impairments. The bill also increases State flexibility in selecting priority areas in which to focus their efforts.

The bill increases the minimum State allotment under the basic State grant to $350,000. It authorizes to be appropriated $62,200,000 for FY1988, $69,900,000 for FY1989, and $77,400,000 for FY1990.

The bill adds several provisions designed to enhance the accountability of the protection and advocacy system by: ensuring particular attention to be paid to the needs of members of racial and ethnic minorities who are developmentally disabled; requiring the establishment of a grievance procedure; and providing the public with an opportunity to make public comment on the priorities established by the System.

The bill clarifies that access to the records of a person with developmental disabilities applies to a person who resides or was abused or neglected while residing in a facility for persons with developmental disabilities. The bill also clarifies the authority of the protection and advocacy system to investigate incidences of abuse and neglect reported to the system if there is probable cause to believe that the incidents occurred. These changes are consistent with comparable authority set out in the Protection and Advocacy for Mentally Ill Individuals Act of 1986, P.L. 99-319.

The bill increases the minimum State allotment for protection and advocacy systems to $200,000. The bill authorizes to be appropriated $20,000,000 for FY1988; $22,000,000 for FY1989; and $24,200,000 for FY1990.

The bill retains the current focus of the part of the legislation establishing university affiliated programs (UAPs), which are designed to assist in the provision of interdisciplinary training, the demonstration of exemplary services and technical assistance and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

The bill permits universities to apply for funds to study the feasibility of establishing new UAPs and satellite centers and directs the Secretary of Health and Human Services to consider expanding the number of UAPs and centers into unserved States. In addition, the bill increases the amount of core funding for existing UAPs. The bill requires in the application that the UAP demonstrate coordination between its activities and the activities conducted by the State under the State plan.

Separate line-items are established for core funding and for the funding of grants. The bill authorizes to be appropriated for core funding $9,400,000 for FY1988, $10,200,000 for FY1989, and $11,000,000 for FY1990. For grants to university affiliated programs, the bill authorizes to be appropriated $4,500,000 in FY1988, $5,000,000 in FY1989, and $5,500,000 in FY1990.

Finally, the bill renames the special projects part of the bill to read "projects of national significance." The Secretary is authorized to make grants to, or enter into contracts with, agencies and nonprofit entities for projects of national significance relating to persons with developmental disabilities to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, pursuing interagency initiatives and other projects of sufficient size and scope which hold promise of expanding opportunities for persons with developmental disabilties. The bill authorizes to be appropriated $3,650,000 for each of the fiscal years 1988–1990.

II. Background and Need for the Legislation

Legislative history of the act

The 1970 Amendments

The Developmental Disabilities Services and Facilities Construction Amendments of 1970, P.L. 91–517, constituted the first congressional effort to address the needs of a group of persons with handicaps designated as developmentally disabled. P.L. 91–517 amended the Mental Retardation Facilities and Community Health Centers Construction Act of 1963. The 1970 amendments defined developmental disability to include persons with mental retardation, cerebral palsy, epilepsy, and other neurological conditions closely related to mental retardation which originate prior to age 18 and constitute a substantial handicap.

The 1970 amendments authorized State allotments for planning, services, and construction of facilities for persons with developmental disabilities. A State plan was required which was to designate a State planning and advisory council. One-third of the Council was to be comprised of consumers of service. The State plan was to describe the quality and extent of services and to show how funds were to be used to augment, rather than duplicate, services already available.

Grants to help support interdisciplinary training in institutions of higher education were authorized to help meet shortages of personnel to provide services to persons with developmental disabilities. This has become known as the university affiliated facilities program.

A National Advisory Council on Services and Facilities for the Developmentally Disabled was also authorized.

The 1975 Amendments

The Developmentally Disabled Assistance and Bill of Rights Act, P.L. 94–103, required that protection and advocacy programs be established in each State as a condition to receive a State grant. The

protection and advocacy systems are designed to protect and advocate for the rights of persons with developmental disabilities and to pursue legal, administrative, and other remedies to ensure the protection of rights for such persons.

The 1975 amendments added the "Rights of the Developmentally Disabled," which included congressional findings such as the right to appropriate treatment and services designed to maximize individual potential.

The Federal discretionary grant authority was added by the 1975 amendments. Grants were authorized for demonstration service projects, public information and for other activities designed to improve services for persons with developmental disabilities.

The definition of developmental disability was expanded to include autism and dyslexia, if such dyslexia resulted from one of the other disabilities included in the definition.

The 1975 Amendments defined university affiliated facility to mean a part of a college or university that has a demonstration service program and provides education and training, including interdisciplinary training, to persons needed to render service to persons with developmental disabilities. Satellite centers were authorized to extend training and services to unserved areas.

The Amendments added a requirement that all persons served under authorized programs have in effect a written habilitation plan which states long-term habilitation goals, intermediate objectives, and a plan for service delivery.

The 1978 Amendments

Title V of P.L. 95-602 amended the Act by authorizing a revised definition for the term developmental disability. Prior to the 1978 Amendments, the term was defined to include mental retardation, cerebral palsy, epilepsy, autism, and certain other neurological conditions. A major provision of the 1978 Amendments modified this definition by deleting all references to specific handicapping conditions and establishing a definition based on functional limitations.

The 1978 Amendments established four priority service areas and required that States choose not more than two priority service areas for expenditure of not less than $100,000 or 65 percent of the State grant funds, whichever was greater. The four priority service areas were: case management services, child development services, alternative community living arrangement services, and nonvocational social-developmental services.

The Amendments repealed authorization for the National Advisory Council on Services and Facilities for the Developmentally Disabled.

Omnibus Budget Reconciliation Act of 1981

P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981, provided authorization for the developmental disabilities programs for FY1983 and FY1984 and repealed a requirement for individual evaluations of persons served under this Act.

The 1984 Amendments

The Developmental Disabilities Act of 1984, P.L. 98-527, added a statement of purpose to the Act which specifies that programs au-

thorized are to help assure that persons with developmental disabilities achieve their maximum potential through increased independence, productivity, and integration into the community.

The 1984 Amendments added employment-related activities as one of the priority service areas. Employment-related activities must be one of a State's priority service activities after FY1986 if the appropriation for the State grant program equals or exceeds $50.25 million in that year. The Amendments provide that States may choose up to three priority service areas beginning in FY1987. The Amendments deleted nonvocational social-developmental services as a priority service area, but retained authorization for these services on a nonpriority basis. Also, services to promote and coordinate activities to prevent developmental disabilities were authorized by the amendments.

The State Planning Council memberhip was required by the Amendments to include representatives of the State agencies that administer the Rehabilitation Act, the Education of the Handicapped Act, and Title XIX of the Social Security Act (Medicaid), as such title affects persons with developmental disabilities. Protection and advocacy systems, higher education training facilities, and each university affiliated facility or satellite center in the State are to be represented on the Council.

The Amendments required that not more than 25 percent of the State grant funds be allocated to the administering agency for the provision of services by such agency.

Minimum allotments established by the Amendments provided that when appropriations reached $47 million, States were to receive a minimum allotment of $300,000 (compared to $250,000 prior to the amendments), and territories were to receive a minimum of $160,000 (compared to $100,000 prior to the amendments).

The Amendments prohibited States from redesignating the agency that administers the protection and advocacy system unless the State determines that good cause exists for the redesignation. States are to give notice to persons with developmental disabilities or their representatives regarding any intention to redesignate. Information and referral services were authorized for protection and advocacy systems.

Protection and advocacy systems were given access to the records of persons with developmental disabilities living in residential facilities if there are complaints regarding the facility and if the individual does not have a legal guardian or the State is the legal guardian.

Minimum allotments established by the 1984 Amendments provided that when appropriations equalled or exceeded $11 million, States were to receive $150,000 (compared to $50,000 prior to the amendments), and territories were to receive a minimum of $80,000. (There was no statutory minimum for territories prior to the 1984 amendments.)

The 1984 Amendments provided that no new university affiliated facilities were to be funded after FY1985 unless a feasibility study had been conducted and the need for the facility documented. Applications for university affiliated facilities and satellite centers were required to provide assurances that the human rights of per-

sons receiving services were protected according to section 110 of the Act, Rights of the Developmentally Disabled.

When appropriations reached $8.5 million, the minimum amount for a grant to a university affiliated facility was to be $17,000. (The previous grant minimum was $150,000.) The minimum grant to a satellite center, $75,000, was not changed by the 1984 amendments.

The 1984 Amendments specified that special projects are to expand and improve services to underserved groups of persons with developmental disabilities, including Native Americans and Native Hawaiians.

HEARINGS AND TESTIMONY

Witnesses

The Subcommittee on the Handicapped held hearings on Wednesday, April 8, 1987 to consider the reauthorization of the Developmental Disabilities Assistance and Bill of Rights Act.

The first witness at the hearing was Senator Strom Thurmond of South Carolina. Senator Thurmond testified on this bill, S. 926, which amends the Special Projects Grants section of the Act to authorize the Secretary to fund grants for the operation of The National Information System for Health Related Services (NIS), with an authorization level of $750,000 per year for FY1988 through FY1992. The bill would create a national computer-base information and referral service system for children with developmental disabilities and chronic illness.

Following Senator Thurmond was the first panel, consisting of Dr. Jean K. Elder, Acting Assistant Secretary for the Office of Human Development Services at the Department of Health and Human Services and former Commissioner of the Administration on Developmental Disabilities. Dr. Elder was accompanied by Mr. Bob Stovenour, the Acting Commissioner for the Administration on Developmental Disabilities. Dr. Elder discussed the overall purpose of the Developmental Disabilities Program, as well as the Administration's proposed reauthorization bill for the Act.

The second panel consisted of three individuals who have directly benefited or had family members who have benefited from programs or services generated from the Act: Lynn Wasik, Raymond Kilroy and Delores Everitt.

Ms. Lynn Wasik, of Highland, Michigan, spoke on behalf of the National Association of Protection and Advocacy Systems. She is the mother of a fifteen year old son, David, who has cerebral palsy, mental retardation, and a seizure disorder. Ms. Wasik described how the Protection and Advocacy (P&A) System exposed dangerous and neglectful conditions in the nursing home where David lived, and assisted the family in achieving David's integration into the community and his recent return to living at home. She also described other critical issues facing the P&A Systems which she hoped would be addressed during the reauthorization. Ms. Wasik was accompanied by Robyn Friedman of the Michigan Protection & Advocacy System.

Mr. Raymond Kilroy, of Unionville, Connecticut, testified on how he has personally benefited from changes in service systems for persons with developmental disabilities generated by the State

Planning Council, which is funded through the basic State grant program. Mr. Kilroy has cerebral palsy and uses a communication board with a speech synthesizer for communication. His testimony emphasized the importance of expanding the Act to empower individuals and families to control their own futures, and to move the Act away from providing direct service, towards systems change and building bridges to community and neighborhood associations. Mr. Kilroy was accompanied by Mr. George Ducharme.

Ms. Delores Everitt, of Lincoln, Nebraska, is the mother of an adult who is developmentally disabled. Her testimony focused on the fears and problems faced by aging parents of individuals with disabilities.

The third and final panel consisted of three witnesses: Dr. Alfred Healy, Ms. Judy Hoyt, and Dr. Elizabeth M. Boggs.

Dr. Healy is the Director of the Division of Developmental Disabilities at the University Hospital School at the University of Iowa. He spoke on behalf of the American Association of University Affiliated Programs for Persons with Developmental Disabilities, and elaborated on the role and responsibilities of the University Affiliated Programs (UAPs) in meeting emerging needs within the field of developmental disabilities.

Ms. Hoyt, of Holland, Massachusetts, is the mother of a college age son with developmental disabilities. She spoke on behalf of United Cerebral Palsy Associations Inc., Epilepsy Foundation of America, and seven other national organizations which represent individuals with severe disabilities who meet the functional definition of developmental disability, but whose primary impairment is not mental in nature.

Ms. Hoyt described the experience of her son, who has brain damage and can't walk, talk, or feed himself and yet has above average intelligence. He was denied an adaptive seat by the State Department of Mental Health because he did not have the right "label" to get this service. She stressed that the term, "developmentally disabled" does not represent a homogeneous group of individuals in terms of service needs, and that the promise of the Act will remain unfulfilled until all eligible populations, including persons with physical disabilities, are able to benefit from all Federal, State, and local programs and services for which they are eligible. She further urged that the State Planning Councils be involved in system reform necessary to make this possible.

Dr. Elizabeth Boggs testified on behalf of the Consortium for Citizens with Developmental Disabilities (CCDD). The parent of an adult man who is developmentally disabled, Dr. Boggs was a founding member of the Association for Retarded Citizens, has served on the State Planning Council in New Jersey, and recently chaired the Task Force on the University Affiliated Programs constituted by the Office of Human Development Service. Her testimony on behalf of CCDD include numerous recommendations to both fine tune and change existing statutory provisions, in order to enable the Act to remain on the cutting edge of best practice in the field, and further enable the goal of the Act—independence, productivity and integration of persons with developmental disabilities, to be achieved.

Issues Raised

The testimony provided during the hearings and for the record revealed a number of issues for consideration in developing a reauthorization bill. These issues will be discussed in terms of their relevance to each part of the Act.

The Basic State Grant Program

Part B of the Act provides Federal assistance to States for planning, advocacy and service activities for persons with developmental disabilities. Activities conducted through this basic State grant program are organized through State Planning Councils on Developmental Disabilities. The planning and advocacy activities of these Councils have resulted in new or increased State service initiatives such as respite care, family support, and options for independent rather than institutional living. The activities have also resulted in improved use and coordination of Federal funds through policy support for implementation of supported employment, accessible transportation, community health services, and social services such as attendant care. These have been accomplished by using the funds available to Councils as catalytic agents to assist States to better use Federal and State resources to promote independence, productivity and integration into the community of persons with developmental disabilities.

A number of issues emerged regarding the basic State grant program, and the role of the State Planning Councils in ensuring that the goals of the Act—independence, productivity and integration into the community, are furthered. These included, among others, testimony regarding empowering individuals with disabilities, the role of the State Planning Council as a bridge-builder and capacity-builder rather than service provider, the importance of families and community members in the system of support for individuals with development disabilities, the breadth of the Federal functional definition of developmental disabilities and whether all eligible populations are benefiting from the Act to the fullest extent possible, the independence and authority of State Planning Councils, and the possible need for flexibility in the number of mandated priorities.

Substantial oral and written testimony was provided on the need to strongly indicate in the Act that individuals with developmental disabilities are able to and should have control over their own lives, including the design and implementation of the services and supports they receive. Referred to in testimony as "consumer empowerment," this relates to activities which are undertaken to facilitate individuals in making decisions which will meet their needs and enhance the quality of their lives.

Testimony provided during the hearings and for the record elaborates on numerous types of activities which might be undertaken by State Planning Councils to encourage the empowerment of people with developmental disabilities. For example, Councils could fund such things as the development of self-advocacy training, which aids people with developmental disabilities in making decisions which affect their lives. Councils might also support the development of case management systems and interdisciplinary

teams which involve the person with developmental disabilities in planning for their own needs.

A second issue raised relates to the importance of the Council as a bridge-building vehicle for persons with disabilities to the Community and to neighborhood associations. Witnesses testified that indeed the community is the natural environment in which all individuals, including individuals with developmental disabilities, should live, work, and contribute. An important component of the activities undertaken by State Planning Councils should be to encourage and reinforce community life and the involvement of individuals with developmental disabilities in that life. Funds should be used to support priority area activities to build this community capacity, rather than to separate people with developmental disabilities from their communities as has historically been the case with more traditional service delivery systems.

In considering this "bridge-building" into the community, witnesses explained that family, friends, neighbors and other members of the community become the fabric of social relationships which support people in that environment. This is true for all individuals, including persons with developmental disabilities. Testimony provided for the record clearly indicates a need to include family, friends, neighbors and other members of the community in assisting persons with developmental disabilities to access and obtain the supports and services necessary to enhance their independence, productivity and integration.

The testimony of Raymond Kilroy of Connecticut provides an example of how these concepts—empowering individuals, building bridges to neighborhood and community associations, and the importance of family, friends and other community members, can be brought together to assist an individual take control of his life and become an active member of his community. Mr. Kilroy, in describing the assistance he is receiving from the State Planning Council, states: "We are moving away from emphasizing my needs toward building upon my capacities. We are moving away from providing services to me from some facility toward building bridges with me to community and neighborhood associations. We are moving away from serving me and other people with disabilities toward empowering us, and families, to acquire the support we want." In accomplishing this, Mr. Kilroy, with the assistance of several friends and other individuals, is involved in establishing a personal plan for his future that will enable him to obtain a more valued role in his community.

In addition to building the capacity of communities in general through such bridge-building efforts, testimony for the record enumerates other types of capacity-building activities in which the State Planning Councils can be involved. A critical type of capacity-building described by several witnesses is in the area of public policy. For example, Councils could educate policymakers regarding what policy changes are needed to assist persons with developmental disabilities to become independent, productive members of society.

A fourth issue raised during hearings and in testimony provided for the record relates to the breadth of the functional definition of developmental disabilities, and whether all eligible populations are

in fact benefiting from the advocacy, policy reform and model service programs under the auspices of the State Planning Council. Testimony was provided which indicates that in some States the intent of the Act—assuring that all persons with developmental disabilities with mental or physical impairments or a combination of such impairments, is not being consistently met. Several witnesses concluded that there is a need to ensure that all people who meet the functional Federal definition are in fact able to access the support and services to which they need, and to provide accountability for ensuring that State Planning Councils are considering all eligible populations in their advocary efforts and setting of priorities.

A fifth issue raised regarding the basic State grant program relates to the independence of the State Planning Council. At present, most Councils are not designated "State agencies" in State statute, and are technically unable to administer State grant funds. Each State must have an entity authorized by State government to administer these funds. Testimony was provided regarding attempts by administering agencies to control or influence these funds for purposes other than those intended by the Council, and for the need to remedy this situation in the current reauthorization.

Finally, testimony was provided which raised the issue of how many Federal priority areas should be mandated, and what flexibility should be afforded States in determining additional priorities for the State Planning Council.

Protection and Advocacy of Individual Rights

Part C of the Act provides allotments to support a system in each State to protect the legal and human rights of persons with developmental disabilities. These Protection and Advocacy Systems (P&As) served approximately 85,000 people in 1986, and have been successful in negotiating 97% of their cases without resort to litigation. They represent children with developmental disabilities in special education, child abuse and guardianship issues, abuse and neglect in institutions, access to community services, income benefits, transportation, housing, employment discrimination and accessibility to public structures. In addition to these specific areas of advocacy, many people with disabilities benefited from systemic actions initiated by the P&A Systems, and many were assisted by receiving information and referral services.

Several issues emerged regarding the Protection and Advocacy System. These included the need to clarify the range of authorities provided to P&As under the Act, the need to ensure accountability of the P&A system, the necessity of P&As having to place people with developmental disabilities on waiting lists as well as other obstacles they encounter in their effort to provide protection and advocacy services to all persons with developmental disabilities seeking their assistance.

In terms of the authority of the P&As, testimony was provided regarding the need to have a specific focus added in the Act to meet the needs of underserved minority persons. Indeed, minority persons with developmental disabilities have already been a priority for service for many P&As. In addition, the issue was raised re-

garding the need for advocacy for persons who are being relocated, either within community living arrangements or because of the depopulation of State institutions and nursing homes. Finally, testimony was provided on the need for P&As to educate governmental entities and policymakers on behalf of the people with disabilities they serve.

In terms of the accountability of the P&A Systems, testimony focused on the advisability of creating a grievance procedure for clients within the System to assure that they are afforded the opportunity to have full access to services. In addition, because P&As engage in a priority setting process, testimony was provided on the benefit of community input in the setting of such priorities to further ensure accountability of the system.

Finally, testimony was provided regarding the inadequacy of current appropriations and the resulting need for P&As to place many persons with developmental disabilities seeking their assistance on waiting lists.

University Affiliated Programs

Under Part D of the Act, grants are awarded to support a national network of University Affiliated Programs (UAPs) and satellite centers. These programs provide interdisciplinary training, exemplary services, technical assistance, and information dissemination to ensure that there is a professional and paraprofessional work force prepared to meet the service needs of persons with developmental disabilities.

In FY1986, UAPs funded under this part provided interdisciplinary training to 7,081 trainees in 56 disciplines and provided exemplary services to 72,150 persons with developmental disabilities and their families. UAPs have frequently been at the forefront in their response to the changing needs of persons with development disabilities and their families through their daily contact with those they serve, with other service agencies, and their involvement in responding to evolving needs of persons with developmental disabilities.

A number of issues emerged during the hearing and for the record regarding UAPs, including, among others: the need to increase the minimum level of core funding; expanding the number of UAPs; and targeting grant funds on areas of emerging national significance.

The first issue raised concerned the need to increase the minimum core funding provided to UAPs. The Act provides "core funding" to ensure continued administrative and core staff support for UAPs. These funds serve as a catalyst to secure other public and private funds. According to a report by the Secretary of Health and Human Services, in FY1985 this assistance allowed the UAPs to sustain a total network budget of $117 million, thereby generating $12 for each dollar of Federal support. The Subcommittee heard testimony that this figure increased in FY1986 with UAPs generating $16 for each dollar of support under the Act.

In testimony and documents submitted to the Subcommittee, the importance of the core funding was emphasized. This funding supports administrative and operational costs of the UAPs, but it also demonstrates a Federal commitment that is critical to UAP efforts

to attract funds from other Federal as well as State, local and private sources. Moreover, eligibility for core funding is predicated on UAPs providing individuals with developmental disabilities exemplary services which meet rigorous standards.

Testimony also indicated the steady erosion of Federal support for UAPs over the years, when inflation is taken into consideration. Funding constraints over the years and increased statutory mandates have required UAPs to secure greater shares of their operating budgets from other sources, some of which require activities that are not necessarily targeted on individuals with developmental disabilities or their families. Considerable evidence was presented to indicate that this makes it difficult for UAPs to maintain their focus on developmental disabilities.

The second issue raised concerns the need to expand the number of UAPs and satellite centers, and the lack of significant expansion due to funding contraints. There are currently 15 States (Hawaii, Alaska, Nevada, Idaho, Wyoming, North Dakota, Oklahoma, New Mexico, Arkansas, Illinois, Delaware, New Hampshire, Maine, Texas and Rhode Island) that do not have a UAP. These States have no organized, Federally sponsored program to provide exemplary services and interdisciplinary training for allied health professionals, parents, and physicians who provide services to persons with developmental disabilities. Witnesses explained that shortages of properly training personnel and appropriate services are greater in States that do not have UAPs.

Moreover, witnesses explained that States that do not have UAPs do not receive the benefits of technical assistance provided by UAPs. Much technical assistance is devoted to continuing education and other training activities but a great deal focuses on establishing and supervising locally operated screening programs that prevent or reduce the severity of many developmental disabilities. Witnesses concluded that States without a UAP could clearly benefit from such preventative services.

The third issue concerns the need for UAPs to focus on areas of emerging national significance for persons with developmental disabilities.

Despite their responsiveness to changing needs of the population with developmental disabilities, witnesses testified that UAPs have not had adquate resources to adequately meet the training and service needs in areas of emerging national significance. Small grants to UAPs have been limited to $20,000 or less for purposes of planning and development rather than training.

Changes in public policy, advances in medicine and technology, modifications in service delivery systems, and demographic trends create new personnel training and service needs. In testimony and documents presented to the Committee, several key areas of emerging national significance were identified.

Amendments to the Education of the Handicapped Act in 1986 (P.L. 99-457) authorized early intervention services for infants and toddlers. The authorizations for personnel preparation in other programs are not sufficient to meet the needs for preparing qualified personnel in the several critical disciplines.

The population of aging individuals with developmental disabilities is increasing. The population with developmental disabilities

is living longer because, as has been reported by Matthew Janicki, Ph.D. of the State of New York Office of Mental Retardation and Developmental Disabilities, and Dennis Harper, Ph.D. of the Iowa University Affiliated Program, intervention programs, better medical care, and developing community treatment all support this longevity for the aging person with developmental disabilities. Many of these individuals, who currently live with their families or relatives, will require new types of support when their families are no longer able to provide care for them. Despite increasing population needs, there is an extreme lack of trained personnel in every health care and allied health related discipline available to treat and assist elderly persons with developmental disabilities.

Witnesses explained to the Subcommittee that the training of personnel has not kept pace with the dramatic shifts in residential, recreation and vocational pattern in the community of persons with developmental disabilities. Consistent with the national purposes of the Act, persons with developmental disabilities increasingly live, work and recreate in community-based programs. The training of staff who provide direct service and support is important because their nonspecialist roles are critical to assuring a place for persons with disabilities in typical communities.

Special Project Grants

Part E of the Act provides for grants for demonstration projects to increase and support the independence, productivity and integration into the community of persons with developmental disabilities. There grants are intended to focus on areas of key importance in the field of developmental disabilities. For example, grants have been funded to improve the effectiveness and efficiency of efforts to provide support services in a variety of areas to the families of persons with developmental disabilities; to facilitate the development of community-based living arrangements and housing alternatives; and to expand employment opportunities for persons with developmental disabilities.

Several issues were raised ragarding the use of funds under, and the overall structure of, this part of the Act. Specifically, testimony was provided which indicated that this part of the Act should be more specifically focused on policy initiatives of national significance which will ultimately impact all persons with developmental disabilities. Within such policy analyses, there is a need to provide support and technical assistance in a number of areas, such as in the areas of educating policymakers, developing ongoing data collection systems, and pursuing Federal interagency initiatives. Testimony was also provided on the need to determine the feasibility of establishing a national information and referral system for persons with developmental disabilities, and how to best structure such a system. Finally, testimony indicated the desirability of requiring public comment to the Secretary on proposed priorities under this part, in order to ensure that their use is consistent with the goals of the Act and the requirements of this part.

III. Legislative Consideration and Votes in Committee

S. 1417 was introduced on June 24, 1987, by Senator Harkin for himself and Senators Weicker, Kennedy, Metzenbaum, Stafford, Simon, and Cochran. At the request of all members of the Subcommittee on the Handicapped, the bill was considered directly by the Committee on Labor and Human Resources.

In an Executive Session of the Committee on Labor and Human Resources on Wednesday, July 1, 1987, the motion to favorably report the bill with an amendment to the Senate was passed unanimously by voice of the Committee.

IV. Explanation of the Bill and Committee Views

FINDINGS AND PURPOSE

The Committee restates its support for the basic findings and purposes of the Act. The four refinements to the findings section of the Act (section 101(a)) reflect the most up-to-date thinking on approaches for enabling persons with developmental disabilities to achieve their maximum potential through increased independence, producitivity, and integration into the community.

First, section 101 of the bill deletes a reference to the "vulnerability" of individuals with developmental disabilities, a reference which focuses only on limitations. In lieu thereof, the bill recognizes that persons with developmental disabilities have severe disabilities which are likely to continue indefinitely but, notwithstanding their severe disabilities, these individuals have capabilities, competencies, and personal needs and preferences. It is this recognition of capacity, rather than limitations, that provides the framework for many of the changes made by the bill.

Second, the bill recognizes the central role the family and members of the community, including friends and neighbors, can play in enhancing the lives of persons with developmental disabilities, especially when necessary support services are provided. Indeed, the Committee recognizes that social relationship beyond the family are critically important, and that supporting individuals with disabilities in the forming and maintaining of relationships with friends, neighbors, and other members of the community, in accordance with the desires and interests of the individual with disabilities, is appropriate and consistent with the goals of the Act.

Third, the bill recognizes that many employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings. Indeed, the Committee recognizes that research, demonstration projects and successful service provision data have clearly demonstrated that individuals with severe disabilities can become employed in competitive work given appropriate supports, such as those which meight be offered through supported employment models.

Fourth, the bill modifies the finding regarding institutional care to affirm that it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

The purpose section of the Act (section 101(b)) is revised to delete duplicative statements of purpose that already exist at the beginning of each part of the Act and to recognize the importance of enhancing the role of the family in assisting persons with developmental disabilities achieve their maximum potential.

DEFINITIONS

Section 102 of the bill deletes outmoded definitions contained in section 102 of the Act such as the "cost of construction" (construction has not been authorized under this Act since 1978); deletes definitions defining the term "facility" consistent with the change in term "university affiliated facilities" to "university affiliated programs" and incorporates the definition of "nonprofit" set out in section 102(4) of the Older Americans Act of 1965.

The bill modifies several other terms in the Act. The bill deletes the term "services for persons with developmental disabilities" which is defined as including priority services and other specialized services or special adaptations of generic services. The distinction between the two categories of services created by this definition has proven to be unworkable because many "priority" services were also "other specialized services or special adaptations of generic services."

Instead, the bill includes the term "specialized services or special adaptations of generic services"; groups the services under each of the Federal priority area activities; and includes a fifth group of cross-cutting services that fit under two or more of the Federal priority areas and may fit under a State priority area. Some of the services in the fifth category are structural in nature and tend to be needed to undergird a State's system, such as information and referral systems, counseling, and prevention.

Prevention activities engaged in by States include: education programs for pregnant mothers regarding the adverse effects on the fetus of alcohol, medication, organic solvents, caffeine, nicotine, diseases, and infections; public service campaigns about the use of seat belts to prevent head injury; and creation of early intervention programs to enhance the likelihood of healthy babies.

The listing of an array of specialized services or special adaptations of generic services is intended to describe what a comprehensive State system of services might include and, as explained below, is not intended to suggest that funds provided under the basic State grant are to be used for direct services.

The term "service activities" is replaced with the term "priority area activities." The Committee believes that this change in language reflects a reorientation of the program away from using funds under the basic State grant to support projects providing direct services to a limited number of persons with developmental disabilities to supporting capacity-building and other efforts to improve State systems under which services and other assistance and opportunities are made available for greater numbers of persons with developmental disabilities.

The new term "priority area activity" differs from the term "service activities" in several respects. First, the bill specifies as a priority area activity those activities which are designed to in-

crease the capacities and resources of entities and others to provide specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and to enhance coordination among entities.

A second priority area activity is the conduct of studies and analyses, the gathering of information, development of model policies and procedures, and the presentation of the information, models, findings, conclusions, and recommendations to policymakers designed to echance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with development disabilities.

A third priority area activity includes the demonstration of new ways of maximizing the independence, productivity, and intergration into the community of persons with developmental disabilities such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under the Act, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities.

The bill retains the activities of outreach to individuals for accessing assistance in the area and the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, and a generic category of persons.

The bill replaces the term "priority services" with the term "Federal priority areas" and changes the phrasing of the priorities to focus on outcomes instead of services; thus, "alternative community living arrangement services" is changed to "community living"; "employment related activities" is changed to "employment"; "child development services" is changed to "child development"; and "case management services" is changed to "case management."

The bill revises the definition of the term "supported employment" to be consistent with the definition of the term included in the Rehabilitation Act Amendments of 1986 (P.L. 99-506). Consistent with the views expressed during the reauthorization of P.L. 99-506, the Committee intends that supported employment as defined under the Developmental Disabilities Assistance and Bill of Rights Act is not intended to be limited to any one model of service provision or used exclusively with one group of disabled individuals. For example, P.L. 99-506 specifically states that transitional employment programs are an appropriate form of supported employment for individuals with mental health problems. In addition, the Committee recognizes that other forms of support are appropriate for disabled individuals with servere physical impairments. By updating the definition of supported employment included in the Act, the Committee intends to stress the individual and evolving nature of supported employment as an important employment outcome for all individuals with physical or mental impairments, or a combination of such impairments.

The bill also revises the definition of the term "case management"; adds a definition for the term "early intervention"; adds a

definition for the term "family support service"; and adds and then defines the term "assistive technology".

Family support services is defined in the Act to mean services designed to (a) strengthen the family's role as primary caregivers (including the role of the elderly parent); (b) prevent inappropriate out-of-the home placement and maintain family unity; and (c) reunite families with members who have been placed out-of-the home. Such term includes respite care, personal care, and parent training and counseling or other individual services as appropriate.

The Committee includes this definition due to its increased awareness of the importance of providing support to families as a vital component of ensuring successful community living and enhancing the independence of individuals with disabilities. The list of services included in the Act is intended to be illustrative and not exhaustive of the type of individualized services which may be appropriate to be available within a service system.

Assistive technology is defined in the Act of mean "the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements." The list included in the statute is not meant to be exhaustive. Thus, for example, training is obviously an additional area.

The term assistive technology is being added to the Act as a result of the impact this emerging discipline is having on reducing barriers in communication, mobility, self-direction, learning, capacity for independent living and economic self-sufficiency for persons with developmental physical impairments, mental impairments, multiple impairments. By including assistive technology in the Act, States will be encouraged to make available and promote the use of these services for individuals with developmental disabilities, thereby enhancing the opportunities for numerous individuals to achieve maximum independence, productivity and community integration.

REPORTS

In the past, there has been limited information available to the Secretary and the Department regarding the effectiveness of the basic State grant program. The Committee intends that data about the program is critical to provide a better understanding of the changes needed at the Federal, State, and local levels to support efforts to increase the independence, productivity, and integration into the community of persons with developmental disabilities.

Therefore, two new reporting requirements are included. Section 103 of the bill amends the Federal and State reporting requirements in section 107(a) of the Act to include a review and description of the actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared under the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State and the Council's response to such reports, plans, and actions. Currently, the State must simply assure that such report and plan is provided to the State Planning Council.

These additional requirements are consistent with the State Planning Council's advocacy responsibility to enhance, among other things, the integration into the community of persons with developmental disabilities. These additional requirements are also intended to provide needed information about the extent to which States are making expensive corrections to large congregate facilities in lieu of the development of community alternatives and supports for individuals. Since the development of a comprehensive system of service in the community is one of the goals of the Act, Congress needs to know the extent to which policies affecting large institutions are impacting on the development of community programs. The Secretary should develop a reporting format to guide State Planning Councils in responding to this requirement.

The bill also adds requirements that the State report and the report submitted by the Secretary describe the progress made and identifiable trends in the priority setting, policy reform, and advocacy for persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

This amendment and other related amendments to the State plan provisions in the Act (which are described below) reflect the Committee's strong support for the functional definition of the term "persons with developmental disabilities," which has been in the Act since 1978. Under this definition, a broad range of persons with severe disabilities are included. It is the Committee's intent that the basic State grant program be a vehicle for planning and advocacy for the broad spectrum of disabilities meeting the definition of the term.

The report submitted by the Secretary must also identify the fiscal and policy barriers to addressing the needs of persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of mental and physical impairment and data regarding the functioning of the interagency committee established under section 108(b) of the Act.

Part B—Federal Assistance for Planning and Priority Area Activities for Persons with Developmental Disabilities

PURPOSE

Section 201 of the bill amends the purpose section for part B by combining the statement of purpose currently set out in sections 102(b) and 121 of the Act. The purpose of part B is to provide payments to States to assist in the development of a comprehensive system and coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities achieve their maximum potential through increased independence, productivity, and integration into the community.

STATE PLANS

Section 202 of the bill contains several changes to the State plan provisions in section 122 of the Act. First, in describing the State plan in section 122(b) of the Act, the bill deletes the phrase "for the provision of services for persons with developmental disabilities." This change is consistent with the reorientation of the language in the Act away from direct service delivery to capacity building and other activities designed to enhance opportunities for persons with developmental disabilities.

Second, the bill retains the requirement that the State establish a State Planning Council but moves the specific requirements applicable to the Council to section 124 of the Act.

Third, the bill amends the provision applicable to the designation of a State administering agency. The amendment reflects the varying relationships throughout the country Councils have with their designated State agency or agencies. On the one hand, it is difficult for Councils in some States to perform their advocacy responsibilities because the designated agency is the primary service provider to whom their advocacy is being directed and this creates a conflict of interest situation. In other States the current relationship between the Council and the designated agency (which provides services to persons with developmental disabilities) is optimal for meeting the needs of such persons.

Consistent with these dual realities, the bill establishes a general rule and an exception to the rule. The general rule is that the designated State agency may be the State Planning Council (if such Council may be so designated under State law); a State agency that does not provide or pay for services made available to persons with developmental disabilities; or a State office, including the immediate office of the Governor or State Planning Office. The Committee intends that the de minimis provision or payment for services made available to persons with developmental disabilities by an agency does not disqualify such agency from being considered the designated State agency.

The exception is that an agency that pays or provides services to persons with developmental disabilities that was the designated agency on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 may remain the designated agency if the Governor determines, before June 30, 1988 not to change the designation.

The determination is made at the Governor's discretion. However, before the decision is made, the Governor must consider the comments of the general public and the non-agency members of the State Planning Council and after the Governor has made an independent assessment of the impact the current designation has on the ability of the Council to serve as an advocate for persons with developmental disabilities.

If the Governor determines not to retain the current designation, he or she shall redesignate the agency prior to October 1, 1990. After the enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any redesignation of a designated agency must be in accordance with the general rule.

Fourth, the bill adds aging, job training, and housing to the list of State plans for Federally assisted State programs which must be described and specifies that the description must address all such programs for which persons with developmental disabilities are eligible to participate, not simply programs for which persons with disabilities are the only intended beneficiaries.

Fifth, the plan must describe a process and timetable for the completion of a policy analysis by April 1, 1990 which includes, among other things, a comprehensive review, analysis and written report on the eligibility for, extent, scope and effectiveness of services provided by and functions performed by all State agencies impacting on the lives of persons with developmental disabilities (including agencies which provide public assistance) attributable to a physical impairment, a mental impairment, or a combination of physical and mental impairments to achieve the goals of independence, productivity, and integration into the community.

In addition, the analysis must include a study of consumer satisfaction; the convening of public forums by the Council; a description of the most appropriate agency or agencies to be responsible for the provision and coordination of services for persons with developmental disabilities traditionally underserved in the State (which may include individuals with developmental disabilities attributable to physical impairments, a combination of mental impairments and racial minorities); and the steps taken to include findings in the Council's ongoing advocacy, public policy, and model service demonstration activities.

By April 15, 1990, the Governor of each State must submit to the Secretary a copy of the report. By September 30, 1990, the Secretary must transmit a summary of such reports to the appropriate committees of Congress. It is expected that the information contained in these reports will assist policymakers at the Federal and State levels determine what, if any, changes in policy are necessary.

Sixth, the provision in current law requiring a review at least once every three years of the Federal and State priorities is amended to require that the review include an analysis of the priority areas in relation to the degree or lack of support for persons with developmental disabilities attributable to physical impairment, mental impairment, and a combination of physical and mental impairments.

The review must also include an analysis of the eligibility criteria that may be causing exclusion; service technology or knowledge which may be unavailable; existing and projected resources; other issues identified by the Council; and objectives in policy reform and service demonstrations to address such issues for all identified subgroups of persons with developmental disabilities.

The bill deletes the current provisions limiting the number of Federal priorities the State may choose and the circumstances under which the State may choose a State priority. Under the bill the State must expend not less than 65 percent (current law) for activities in the Federal priority area of employment and at the State's discretion the three other Federal priority areas and a State priority area. The State is also authorized to fund special policy analyses required by the State plan analyzing the extent to which

all persons with developmental disabilities in the State are receiving appropriate services.

The State priority area may include activities in two or more Federal priority areas. This option is included in recognition of the fact that the Federal priority areas are not mutually exclusive and frequently States would like to address a related activity from a Federal priority area which they have not selected. For example, adults living in the community need transportation to and from work if they are to reach the goals of independence, productivity, and integration. Also, for rural States, it is frequently impossible to address one priority area (for example community living) without also addressing case management. Thus, the State priority area would permit Councils to engage in such cross-cutting activities and to identify them more clearly for reporting purposes.

The State priority area may also include an area of focus in the State considered essential by the State Planning Council. Providing States with this authority reflects the Committee's recognition of the differences among States in meeting the needs of persons with developmental disabilities and the concomitant need to provide States with the flexibility to address those areas of need they deem essential. For example, a State may decide that in order to ensure the effective implementation of its policy objectives, there must be a network of advocates throughout the State to educate consumers, parents, professionals, and policymakers regarding the needs of persons with developmental disabilities. Such networks were highly successful in some States prior to the 1984 amendments which limited States flexibility regarding the selection of a State priority.

HABILITATION PLANS

Section 203 of the bill amends section 123 of the Act (habilitation plans) to reorder the recitation of participants in the process of developing habilitation plans to provide that the person for whom the plan is established is listed first, the person's family second, and the representative from the service provider last. This change is consistent with the basic approach of this bill, which is to focus on the individual and the family and then determine what support and assistance are needed.

STATE PLANNING COUNCILS

Section 204 of the bill retains the primary function of the State Planning Council under section 124 of the Act to serve as an advocate for persons with developmental disabilities. The bill includes the following changes. First, the bill adds the State agency that administers funds provided under the Older Americans Act to the list of State agencies which must be included in the membership of the Council.

Second, the provision that at least one member of the Council must be an immediate relative or guardian of an institutionalized person with a developmental disability is modified to permit such person to be an immediate relative or guardian of a previously institutionalized person with a developmental disability. With respect to the composition of the Council, the Committee strongly encourages States to include on the Council members of groups tradition-

ally underrepresented such as members of racial and ethnic minorities.

Third, the scope of authority of the Council is clarified. The Council may prepare and approve its budget and may use funds to hire such staff and obtain the services of such personnel, consistent with State law, as it determines to be necessary to carry out its functions. While working for the Council, the staff and other consultants are responsible soley for assisting the Council and shall not be assigned duties by the administering agency or any other agency or office.

The Committee does not intend to prohibit the Council from hiring or retaining the services of an individual on a part time basis who also works part time for other agencies or offices within the State. However, during the period of time when the individual is working for the Council, such person is accountable to the Council for the work performed for the Council. During the time such person is working for another agency, he or she is responsible to that other agency.

STATE ALLOTMENTS

Section 205 of the bill amends section 125 of the Act (State allotments) to increase the minimum allotment for low population States from $300,000 to $350,000 and for territories from $160,000 to $200,000 when the appropriation level reaches $60 million. The bill also authorizes the Secretary to increase the minimum allotment administratively for fiscal years 1989 and 1990 when the increase in the appropriations is greater than the Consumer Price Index.

The bill also adds authority to the State to carry over 20 percent of its basic State grant for one additional fiscal year. Any amounts expended during the succeding fiscal year must be expended in accordance with the applicable Federal requirements and the State plan. This means, for example, that if in FY 1988, a State obligates funds for use by a nonprofit organization and that organization does not expend all of its funds and returns the unexpended portion to the State, that these funds may be re-obligated during FY1989 for other purposes; so long as the amount does not exceed 20 percent of the FY1988 allotment.

With respect to the liquidation of obligations by grantees, it is the Committee's intent that all obligations incurred pursuant to a grant made under the Act for a specific Federal fiscal year must be liquidated within two years of the close of the Federal fiscal year in which the grant was awarded. Further, the Commissioner may waive these requirements when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute.

WITHHOLDING OF PAYMENTS

Section 207 of the bill clarifies the authority of the Secretary to withhold funds under section 127 of the Act. Under the bill, the Secretary may not approve a State plan if the State fails to substantially comply with the State plan provisions. However, if the State fails to implement a part of the State plan, the Secretary is

authorized to withhold less than the full amount of the State's grant.

AUTHORIZATION OF APPROPRIATIONS

Section 208 of the bill amends section 130 of the Act to authorize to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990. The authorization level recommended by the Committee for FY1988 constitutes a 10 percent increase over the current authorization. Percentage increases for FY1987 and FY1990 are 12 percent and 11 percent, respectively. These increases are needed because the developmental disabilities program is the only Federal program designed to address the comprehensive needs of persons with developmental disabilities, the most severely disabled group in our Nation. They are also needed to enable the States to implement the important new initiatives included in this bill.

Despite the importance of the basic State grant program, the funding for the program actually regressed 30 percent between FY1973 and FY1984, according to a recent analysis published by David Braddock, Ph.D., Associate Professor of Community Health Sciences, School of Public Health and Institute for the Study of Developmental Disabilities, the University of Illinois at Chicago, in Federal Policy Toward Mental Retardation and Developmental Disabilities (1987). In real dollars, between FY1984 and FY1987, the program continued to lose ground.

The cost/benefit of this program, which includes a priority focus on increasing employment opportunities for persons with developmental disabilities, is impressive. Dr. Elder, testifying on behalf of the Administration, explained that in the first two years of a campaign to increase employment opportunities for this population, approximately 87,000 workers with developmental disabilities were employed in private sector jobs. They will earn $400 million in gross annual taxable wages while the combined savings in public support costs and services will be an additional $400 million.

PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Section 301 of the bill amends sections 142 and 143 pertaining to protection and advocacy systems in several respects. First, the bill clarifies that protection and advocacy systems ensure the protection of (current law) as well as advocacy for (added by the bill) the rights of persons with developmental disabilities who are (current law) or may be eligible for (added by the bill) treatment, services, habilitation, or who are being considered for a change in living arrangement.

Further, systems have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection and advocacy for persons with developmental disabilities. The phrase "or approaches" is added by the Committee in recognition of the fact that systems may attempt to protect and advocate for persons with developmental disabilities by means other than litigation, to the extent appropriate.

Second, the bill clarifies that access to the records of a person with developmental disabilities applies to a person who resides

(current law) or was abused or neglected while residing in a facility for persons with developmental disabilities.

Third, the bill adds several provisions designed to enhance the accountability of the protection and advocacy systems by: ensuring particular attention be paid to the needs of Indians and members of racial and ethnic minorities who are developmentally disabled; requiring the establishment of grievance procedures; and by providing the public with an opportunity to make public comment on the priorities established by the System.

With respect to the establishment of a grievance procedure, the Committee recognizes that many protection and advocacy systems already have developed such procedures. The Committee's intent in including this provision is to make these procedures standard in all systems. The Committee also wishes to make it clear that this provision should not be construed as requiring systems to serve all prospective clients; limitations in the level of appropriations precludes such a policy. Rather, the intent is to require the establishment of a procedure that may be used for resolving individual complaints.

Fourth, the bill clarifies the authority of protection and advocacy systems to investigate incidences of abuse and neglect of persons with developmental disabilities reported to the system if there is probable cause to believe that the incidents occurred. This authority and the authority to have access to records when there is probable cause to believe that incidents of abuse or neglect are occurring or have occurred are consistent with the provisions recently included in P.L. 99-319, the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

Fifth, the bill increases the minimum allotments for States from $150,000 to $200,000 and the minimum for territories from $80,000 to $107,000 when the amount appropriated by Congress is at least $20 million. The bill also authorizes the Secretary to increase the minimum administratively under the same circumstance applicable to the basic State grant.

Sixth, the bill authorizes the P and A Systems to carry over 10 percent of its allotment in any year in which the amount of the allotment increases by 20 percent or more.

The bill authorizes to be appropriated $20 million for FY1988, $22 million for FY1989 and $24.2 million for FY1990. The authorization level proposed by the Committee for FY1988 constitutes a 29 percent increase over the current authorization level. Ten percent increases for FY1989 and FY1990 are also recommended by the Committee. These increases are necessary because protection and advocacy systems around the country are turning away large numbers of eligible clients due to lack of funding.

In particular, lack of funding has resulted in underserving several populations such as minorities and persons with developmental disabilities in the criminal justice system and nursing homes and intermediate care facilities. The Protection and Advocacy Agency in Hawaii recently explained to the Committee that in April, 1987, three clients actually died before their case assessments could be completed.

University Affiliated facilities

TITLE AND PURPOSE

Section 401 of the bill renames part D as "university affiliated programs". The bill restates the purpose of the part (section 151 of the Act) as providing grants to assist in the provision of interdisciplinary training, the demonstration of exemplary services and technical assistance, and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

CORE FUNDING

The bill retains core funding under section 152(a) of the Act.

FUNDING FOR GRANTS

Section 402 of the bill retains the Secretary's authority under section 152(b) of the Act to make grants to UAPs receiving core funding for the purpose of providing service-related training and conducting applied research. Service-related training may be provided to persons with developmental disabilities, family members of such persons, or professionals, volunteers, or other personnel.

The bill makes several changes to this section. First, the bill deletes the requirement that a study of the feasibility of establishing a new UAP or a satellite be conducted by an existing UAP.

Second, the bill establishes a new grant program for UAPs receiving core funding under which the Secretary is directed to make training grants of sufficient size and scope to address the needs of persons with developmental disabilities in areas of emerging national significance; particularly in the areas of early intervention, programs for the elderly; and community based service programs.

The Committee intends the phrase "sufficient size and scope" to mean substantial, multi-year grants issued after a competitive review process. The Committee included this language in response to current administrative practices regarding discretionary funding for university affiliated programs. Specifically, the $1.5 million allocated to the FY1986 UAP supplemental awards process funded no fewer than 32 grants of $20,000 or less for a duration of 10 to 12 months. In the Committee's view, such a distribution of funds provides neither the resources nor the continuity necessary to execute competent training programs that truly impact the substantive areas selected.

In making grants under this new authority, the Secretary must base the determination of such grants of information relative to the present and projected need for the personnel based on indentified State, regional, or national shortages and the capacity of the UAP to train qualified personnel. Funding provided under these grants may be used to assist in covering the cost for courses of training or study of such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

SATELLITES

Section 402 of the bill authorize satellites to compete for grants for which UAPs are otherwise eligible.

FEASIBILITY STUDIES

Section 402 of the bill also authorizes the Secretary to make a grant to a university to study the feasibility of establishing new UAPs and satellites in those States which currently do not have UAPs or satellites. A grant may not exceed $35,000. The authority to fund such studies should not be construed to permit the Secretary to require an applicant for a new UAP or satellite to complete such a study as a condition to applying for a grant.

APPLICATION

Section 403 of the bill adds two new conditions that an applicant must satisfy in its application submitted pursuant to section 153 of the Act. First, the activities conducted by UAPs and satellites must be consistent with and to the extent feasible complement and further the objectives contained in the State plan. Second, the application must include information demonstrating that the State has provided an opportunity for comment to the general public and the State Planning Council before submission of the application.

In addition, the bill establishes a new minimum of $200,000 for care funding for UAPs and a new minimum of $150,000 for satellites. The bill also directs the Secretary to consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of programs and satellites receiving grants for the preceding fiscal year.

These new programs or satellites must, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by programs and satellites currently funded under the Act. In addition, a variety of factors should be taken into account in determining which new programs to fund, including population density and the needs of special populations. Consistent with section 102(1) of the Act, it is the Committee's intent that institutions of higher education in Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands are fully eligible to compete for a satellite center or UAP.

By indicating that the Secretary must consider expanding the number of UAPs and satellite centers, the Committee does not intend that expansion should proceed automatically. After an examination of proposals, only those universities that have shown a commitment of local and university resources and demonstrated the potential of administering a high quality program capable of addressing the needs of persons with developmental disabilities should be funded.

AUTHORIZATION OF APPROPRIATIONS

Section 404 of the bill amends section 154 of the Act to authorize to be appropriated for core funding $9,400,000 for FY1988,

$10,200,000 for FY1989, and $11,000,000 for FY1990. The bill also includes a separate line item for grants to UAPs and satellites that authorize to be appropriated $4,500,000 in FY1988, $5,000,000 in FY1989, and $5,000,000 in FY1990.

The authorization level recommended by the Committee for FY1988 represents a 38 percent increase over the current authorization level. A 10 percent increase for FY1989 and 9 percent for FY1990 is also recommended. These increases are necessary because this is the only Federal program designed to support a comprehensive and organized program of exemplary services and training for, among other things, allied health professionals, parents and physicians who provide services to persons with developmental disabilities. These authorization levels are also needed to implement the increased core funding levels, the expansion of the network into States that do not have UAPs or satellites, and the establishment of a new grant program for UAPs and satellites to provide specialized training and services in areas of emerging national significance.

Review of UAP funding from 1978 to 1985 reveals a steady erosion of Federal support. While the actual appropriations level increased from $6.5 million in 1978 to $9 million in 1985, the constant dollar value declined by almost $1 million during the same period. Data recently published by Dr. David Braddock reveals that in real economic terms UAP funding patterns have been inconsistent and have fallen from $4.1 million in 1987 to $3.3 million in 1985.

The bill also authorizes the Secretary to use funds appropriated for core funding which are not used for such purpose to be used to fund grants. Of the funds set-aside for grants, at least 75 percent must be used for grants addressing areas of emerging national significance and the remainder for other grants.

Special Project Grants

Section 501 of the bill amends the title of part E to read "Projects of National Significance." This change is intended to clarify the focus of projects receiving funding under this part. In the past, the discetionary authority under this part was used to fund small demonstration projects which were more appropriately funded at the State and local levels.

Section 501 of the bill also amends section 162 of the Act in the following ways. First, the bill authorizes the Secretary to enter into contracts in addition to the current authority to make grants.

Second, the bill clarifies that the purpose of this part is to fund projects of national significance relating to persons with developmental disabilities to educate policymakers; develop an ongoing data collection system; determine the feasibility and desirability of developing a nationwide information and referral system; pursuing Federal interagency initiatives; and pursuing other projects of sufficient size and scope which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities. The Committee directs the Secretary to fund these activities because they are all critical to increasing the knowledge base for the field of developmental disabilities.

Third, the bill clarifies current authority to use funds under this part for technical assistance and demonstration projects not only in connection with protection and advocacy systems (current law) but university affiliated programs and State Planning Councils as well. These changes are intended to enable the Secretary to assist these entities meet their respective responsibilities added by this legislation. Of course, this authority should not be construed as limiting the authority of the Secretary to make grants to or enter contracts with such entities for other purposes authorized under this part.

For example, funds made available under this part could be used to fund a project providing technical assistance to State Planning Councils in planning, conducting, and reporting the policy analysis required under section 122(f)(1) of the Act, as added by the bill. Such technical assistance could include the presentation of a number of alternative models for data collection and reporting in order to encourage an appropriate level of consistency in the methods used and data collected by States.

Fourth, the bill requires that the Secretary publish proposed funding priorities in the Federal Register for public comment and suggestions and then, after analyzing and considering the public comments, publish final priorities in the Federal Register. It is the Committee's intent that the notice for FY1988 funds reflect the new provisions to the Act added by this legislation.

Section 503 of the bill amends section 163 of the Act to authorize to be appropriated $3,650,000 for each of the fiscal years 1988, 1989, and 1990. Of the amounts appropriated, $600,000 shall be available for grants and contracts for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary is directed to award such grants and contracts within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

In specifying no more than three feasibility studies concerning the information and referral system, the Committee expects a rigorous evaluation of both the substantive data and the more difficult technical questions in this area.

The studies should, among other things, examine: The identification of the consumers of services and a determination of their perceived needs; the scope of the databases, included in the categories of information and comprehensiveness of the data to be gathered; procedures for collecting and updating data; methods used to market and publicize the systems; technical issues relating to the use of computers to store, retrieve, and communicate the information across a national network; and the development of models for integrating information provided by existing local, State, and regional systems.

Should the Secretary decide to pursue all three feasibility studies, one or two should explore the possibility of gathering and disseminating information on a regional basis. Furthermore, it is explicitly intended that at least one study should be devoted to the practicality of establishing a nationwide information and referral system located at a single facility.

With respect to the study of the practicality of establishing a nationwide information and referral system located at a single facility, the grant recipient must be a university; must have already demonstrated over five years of involvement in the design and implementation of consumer oriented information and referral systems on a State, regional and national basis. Also required is experience in providing technical assistance to other States in the analysis of service delivery systems and the development, implementation and operation of State information and referral systems. There must also be a demonstrated commitment of computing resources. Evidence of accessibility to data via toll-free telephone must also be provided.

In selecting entities to conduct the other studies, the experience of potential applicants shall be a factor to be considered by the Secretary. Funds obligated under this authority shall be dispersed over a wide geographic area to encourage representation of diverse needs.

V. Regulatory Impact

The Committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VI. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 8, 1987.

Hon. Edward M. Kennedy,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1417, The Developmental Disabilities Assistance and Bill of Rights Act of 1987, as ordered reported from the Senate Committee on Labor and Human Resources on July 1, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1417.

2. Bill title: The Developmental Disabilities Assistance and Bill of Rights Act of 1987.

3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on July 1, 1987.

4. Bill purpose: The purpose of this bill is to amend and extend through 1990 the authorization for appropriations for programs under the Developmental Disabilities and Bill of Rights Act. This bill is subject to subsequent appropriations action.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization levels:					
State assistance	62	70	77		
Protection and advocacy	20	22	24		
University affiliated programs	14	15	17		
Projects of national significance	4	4	4		
Bill total:					
Authorization level	100	111	122		
Estimated outlays	61	102	118	46	6

The costs of this bill fall within function 500.

Basis of Estimate

This cost estimate of H.R. 1417 reflects the new and extended authorizations for developmental disabilities assistance programs. These programs provide Federal grants to States, universities, and public or nonprofit private entities for activities to support persons with developmental disabilities. The programs are authorized at stated levels for 1988 through 1990.

Outlays are estimated assuming full appropriation of authorization levels, and reflect the current spending pattern of these programs.

6. Estimated cost to State and local government: Two of the programs in this bill, state assistance and university affiliated programs, require grant recipients to pay 25 percent of project costs (or 10 percent if the project is in a poverty area). If these programs are fully funded, the required non-federal share could therefore be as much as $29 million in 1988 and $31 million in 1990.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Ken Pott.

10. Estimate approved by: C.G. Nuckolz, (for James L. Blum, Assistant Director for Budget Analysis).

VII. Section-by-Section Analysis

Section 2. This section specifies that references in the bill to a section of "the Act" are to the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

Section 101. This section updates the findings section of the Act to reflect the most up-to-date thinking in the field regarding persons with developmental disabilities.

The purpose section of the Act is revised to delete duplicative statements of purpose that already exist at the beginning of each part of the Act and to recognize the importance of enhancing the role of the family in assisting persons with developmental disabilities achieve their maximum potential.

Section 102. This section deletes outmoded definitions contained in section 102 of the Act such as the "cost of construction"; deletes definitions defining the term "faculty" and incorporates the definition of "nonprofit" set out in section 102(4) of the Older Americans Act of 1965.

This section also deletes the term "services for persons with developmental disabilities" and includes in lieu thereof the term "specialized services of special adaptations of generic services"; groups the services under each of the Federal priority area activities; and includes a fifth group for services that fit under two or more of the Federal priority areas and may fit under a State priority.

The term "service activities" is replaced with the term "priority area activities" and the new term is revised in several respects. The bill replaces the term "priority services" with the term "Federal priority areas" and changes the phrasing of the priorities to focus on outcomes instead of services; thus, "alternative community living arrangement services" is changed to "community living"; "employment related activities" is changed to "employment"; "child development services" is changed to "child development"; and "case management services" is changed to "case management."

The bill revises the definition of the term "supported employment"; revises the definition of the term "case management"; adds a definition of the term "early intervention"; adds a definition for the term "family support services"; and adds the term "assistive technology."

Section 103. This section amends the State reporting requirements to include a review and description of the actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared under the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State and the Council's response to such reports, plans, and actions; and adds requirements that the State report and the report submitted by the Secretary describe the progress made and identifiable trends in the priority setting, policy reform, and advocacy for persons with developmental disabilities.

The report submitted by the Secretary must also identify the fiscal and policy barriers to addressing the needs of persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of mental and physical impairment and data regarding the functioning of the interagency committee established under section 108(b) of the Act.

TITLE II—STATE ASSISTANCE PROGRAM

Section 201. This section clarifies the purpose section for part B.

Section 202. This section retains the requirement that the State establish a State Planning Council but moves the specific requirements applicable to the Council to section 124 of the Act; amends the provision applicable to the designation of a State administering agency; adds aging, job training, and housing to the list of State plans for Federally assisted State programs which must be described and specifies that the list must include all such programs

for which persons with developmental disabilities are eligible to participate; and describes a process and timetable for the completion of a policy analysis by April 1, 1990.

By April 15, 1990, the Governor of each State must submit to the Secretary a copy of the report. By September 30, 1990, the Secretary must transmit a summary of such reports to the appropriate committees of Congress.

This section also amends a provision in current law requiring a review at least once every three years of the Federal and State priorities to require that the review include, among other things, an analysis of the priority areas in relation to the degree of lack of support for persons with developmental disabilities attributable to physical impairment, mental impairment, and a combination of physical and mental impairments.

This section also deletes the current provisions limiting the number of Federal priorities the State may choose and the circumstances under which the State may choose a State priority and specifies that the State must expend not less than 65 percent (current law) for activities in the Federal priority area of employment and, at the State's discretion, the three other Federal priority areas and a State priority area which may include activities in two or more Federal priorities or activities focusing on an area in the State considered essential by the State Planning Council. The State is also authorized to fund special policy analyses required by the State plan analyzing the extent to which all persons with developmental disabilities in the State are receiving appropriate services.

Section 203. This section reorders the recitation of participants in the process of developing habilitation plans to provide that the person for whom the plan is established is listed first and the representative from the service provider is listed last.

Section 204. This section retains the primary function of the State Planning Council to serve as an advocate for persons with developmental disabilities; adds the State agency that administers funds provided under the Older Americans Act to the list of State agencies which must be included in the membership of the Council; and clarifies the scope of authority of the Council.

Section 205. This section increases the minimum allotment for small States from $300,000 to $350,000 and for territories from $160,000 to $200,000 when the appropriation level reaches $60 million and authorizes the Secretary to increase the minimum allotment administratively for fiscal years 1989 and 1990 when the increase in the appropriations is greater than the Consumer Price Index.

This section also adds authority to the State to carry over 20 percent of its basic State grant for one additional fiscal year.

Section 207. This section clarifies the authority of the Secretary to withhold funds.

Section 208. This section authorizes to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.

TITLE III—PROTECTION AND ADVOCACY

Section 301. This section clarifies that protection and advocacy systems ensure the protection of, as well as advocacy for, the rights of persons with developmental disabilities who are or may be eligible for treatment, services, habilitation, or who are being considered for a change in living arrangement. This section also adds several provisions designed to enhance the accountability of the P and A systems by: ensuring particular attention be paid to the needs of minorities who are developmentally disabled; requiring the establishment of grievance procedures; and by providing the public with an opportunity to make public comment on the priorities established by the System.

This section also clarifies the scope of authority of P and A Systems to investigate incidences of abuse and neglect of persons with developmental disabilities reported to the System (current and former residents) and obtain access to records where there is probable cause to believe that the incidents occurred.

This section increases the minimum allotments for States from $150,000 to $200,000 and the minimum for territories from $80,000 to $107,000 when the amount appropriated by Congress is at least $20 million; authorizes the Secretary to increase the minimum administratively under the same circumstance applicable to the basic State grant; and authorizes the P and A Systems to carry over 10 percent of its allotment in any year in which the amount of the allotment increases by 20 percent or more; and authorizes to be appropriated $20 million for FY1988, $22 million for FY1989 and $24.2 million for FY1990.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Section 401. This section renames part D as "university affiliated programs".

Section 402. This section deletes the requirement that a study of the feasibility of establishing a new UAP or a satellite be conducted by an existing UAP. This section also establishes a new grant program for UAPs receiving core funding under which the Secretary makes training grants of sufficient size and scope to address the needs of persons with developmental disabilities in areas of emerging national significance; particularly in the areas of early intervention, programs for the elderly; and community based service programs. This section also authorizes satellites to compete for grants which UAPs are otherwise eligible; and authorizes the Secretary to make a grant (not to exceed $35,000) to a university to study the feasibility of establishing new UAPs and satellites in those States which currently do not have UAPs or satellities.

Section 403. This section specifies that the application for a UAP must include information demonstrating that the activities conducted by UAPs and satellites complement and further the objectives contained in the State plan and the State has provided an opportunity for comment to the general public and the State Planning Council before submission of the application.

In addition, the section establishes a new minimum of $200,000 for core funding for UAPs and a new minimum of $150,000 for satellites and directs the Secretary to consider applications for grants

for four university affiliated programs or satellite centers for each of the fiscal year 1988, 1989, and 1990 which are in addition to the total number of programs and satellites receiving grants for the preceding fiscal year. These new programs or satellites must, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by programs and satellites currently funded under the Act.

Section 404. This section authorizes to be appropriated for core funding $9,400,000 for FY1988, $10,200,000 for FY1989, and $11,000,000 for FY1990. The bill also includes a separate line item for grants to UAPs and satellites that authorizes to be appropriated $4,500,000 in FY1988, $5,000,000 in FY1989, and $5,500,000 in FY1990.

This section also authorizes the Secretary to use funds appropriated for core funding which are not used for such purpose to be used to fund grants. Of the funds set-aside for grants, at least 75 percent must be used for grants addressing areas of emerging national significance and the remainder for other grants.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Section 501. This section authorizes the Secretary to enter into contracts, make grants, and clarifies that the purpose of this part is to fund projects of national significance relating to persons with developmental disabilities to train policy makers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, pursuing Federal interagency initiatives and other projects of sufficient size and scope which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities.

The section also requires that the Secretary publish proposed funding priorities in the Federal Register for public comment and suggestions and then, after analyzing and considering the public comments, publish final priorities in the Federal Register.

Section 503. This section authorizes to be appropriated $3,650,000 for each of the fiscal year 1988, 1989, and 1990. Of the amounts appropriated, $600,000 shall be available for grants and contracts for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary is directed to award such grants and contracts within six months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

VIII. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE I—PROGRAMS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

PART A—GENERAL PROVISIONS

SHORT TITLE

SEC. 100. This title may be cited as the Developmental Disabilities Assistance and Bill of Right Act.

FINDINGS AND PURPOSES

[SEC. 101. (a) The Congress finds that—

[(1) there are more than two million persons with developmental disabilities in the United States;

[(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

[(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

[(4) generic service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

[(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

[(b)(1) It is the overall purpose of this title to assist States to (A) assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community and (B) establish and operate a system which coordinates, monitors, plans, and evaluates services which ensures the protection of the legal and human rights of persons with developmental disabilities.

[(2) The specific purposes of this title are—

[(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs are not otherwise met under the Rehabilitation Act of 1973 or other health, education, or welfare programs;

[(B) to assist States in appropriate planning activities;

[(C) to make grants to States and public and private, nonprofit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

[(D) to make grant to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental dis-

abilities and interdisciplinary training programs for personnel needed to proved specialized services for these persons; and

[(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.]

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that—

(1) there are more than two million persons with developmental disabilities in the United States;

(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

(4) familiy and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately meet the needs of, or exclude persons with developmental disabilities in their planning and delivery of services;

(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

(b) The purposes of this title are—

(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

(3) to ensure the protection of the legal and human rights of persons with developmental disabilities.

DEFINITIONS

SEC. 102. For purposes of this title—

(1) The term "State" includes Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

[(2) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

[(3) The terms "nonprofit facility for persons with developmental disabilities" and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual. The term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.]

(2) The term "nonprofit" has the same meaning as in section 102(4) of the Older Americans Act of 1965.

(3) [(4)] The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical, transportation, and recreation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

[(5) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.]

(4) [(6)] The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(5) [(7)] The term "developmental disability" means a severe, chronic disability of a person which—

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age twenty-two;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

[(8)] *(6)* The term "independence" means the extent to which persons with developmental disabilities exert control and choice over their own lives.

[(9)] *(7)* The term "productivity" means—

(A) engagement in income-producing work by a person with developmental disabilities which is measured through improvements in income level, employment status, or job advancement, or

(B) engagement by a person with developmental disabilities in work which contribute to a household or community.

[(10)] *(8)* The term "integration" means—

(A) the—

(i) use by persons with developmental disabilities of the same community resources that are used by and available to other citizens, and

(ii) participation by persons with developmental disabilities in the same community activities in which [nonhandicapped] *nondisabled* citizens participate, together with regular contact with [nonhandicapped] *nondisabled* citizens, and

(B) the residence by persons with developmental disabilities in homes or in home-like setting which are in proximity to community resources, together with regular contact with [nonhandicapped] *nondisabled* citizens in their communities.

[(11)(A) the term "services for persons with developmental disabilities" means—

[(i) priority services; and

[(ii) any other specialized services or special adaptations of generic services for persons with developmental disabilities, including diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the person with such disability and the family of such person, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities.

[(B) The term "service activities" includes, with respect to a priority service or a service described in subparagraph (A)(ii)—

[(i) the provision of specialized services in the area which respond to unmet needs of persons with developmental disabilities.

[ii) model service programs in the area;

[(iii) activities to increase the capacity of agencies to provide services in the area;

[(iv) the coordination of the provision of services in the area with the provision of other services;

[(v) outreach to individuals for the provision of services in the area;

[(vi) the training of personnel, including parents of persons with developmental disabilities, professionals, and volunteers, to provide services in the area; and

[(vii) similar activities designed to expand the use and availability for services in the area.

[(C) The term "priority services" means alternative community living arrangement services, employment related activities, child development services, and case management services.

[(D) The term "alternative community living arrangement services" means such services as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements in the community, including in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, recreation and socialization services, and staff training, placement, and maintenance services.

[(E) The term "employment related activities" means such services as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings, including such services as employment preparation and vocational training leading to supported employment, incentive programs for employers who hire persons with developmental disabilities, services to assist transition from special education to employment, and services to assist transition from sheltered work settings to supported employment settings or competitive employment.

[(F) The term "supported employment" means paid employment which—

[(i) is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;

[(ii) is conducted in a variety of settings, particularly worksites in which persons without disabilities are employed; and

[(iii) is supported by an activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation.

[(G) The term "child development services" means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services, counseling and training of parents, early identification of developmental disabilities, and diagnosis and evaluation of such developmental disabilities.

[(H) The term "case management services" means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services. Such term includes—

[(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental dis-

ability and the person's immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

[(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the person's progress.]

(9)(A) The term "specialized services or special adaptations of generic services" has the meaning described subparagraphs (B), (C), (D), (E), and (F) with respect to the activities described in each subparagraph.

(B) With respect to case management activities, the term "specialized services or special adaptation of generic services" includes—

(i) participation in the development of a comprehensive individualized habilitation plan under section 123;

(ii) referral to, and coordination of, social, health, educational, support, and other services as identified in such individualized habilitation plan;

(iii) monitoring to ensure the access, by the person with developmental disabilities and the family of such person, to appropriate services and to determine progress in meeting goals and objectives specified in such individualized habilitation plan; and

(iv) the provisions of assistance to a person with developmental disabilities to enable such person to obtain access to all services to which such person is entitled, and to effect changes in the service delivery system that will result in increased access to services for such person.

(C) With respect to child development activities, the term "specialized services or special adaptations of generic services" includes early intervention services.

(D) With respect to community living activities, the term "specialized services or special adaptations of generic services" includes—

(i) in-home services, such as personal aides and attendants and other domestic assistance and supportive services;

(ii) special living arrangements;

(iii) group living services;

(iv) recreation, socialization, and leisure time services;

(v) nonvocational social development services; and

(vi) placement and continuing support.

(E) With respect to employment activities, the term "specialized services or special adaptations of generic services includes—

(i) services such as employment preparation and training leading to supported employment;

(ii) follow-along services;

(iii) incentive programs for employers who hire persons with developmental disabilities;

(iv) services to assist transition from special education to employment;

(v) services to assist transition from sheltered work settings to supported employment and nonsupported employment in integrated work settings; and

(vi) job placement services.

(F) With respect to activities which are within two or more Federal priority areas or activities which are within a State priority area, the term "specialized services or special adaptations of generic services" includes—

(i) outreach and identification activities;

(ii) diagnosis, assessment, and periodic reassessment to determine each person's goals, strengths, functional limitations, and needs for specific services and other assistance;

(iii) information and referral services;

(iv) treatment;

(v) family support services;

(vi) respite care;

(vii) foster care;

(viii) day care;

(ix) assistive technology;

(x) counseling of a person with developmental disabilities and the family of such person;

(xi) transportation services necessary to assure access to services for persons with developmental disabilities;

(xii) protective and other social and sociolegal services;

(xiii) education and training of personnel, persons with developmental disabilities, and family members of such persons; and

(xiv) services to promote and coordinate activities to prevent developmental disabilities.

(10) The term "priority area activities" includes, with respect to Federal priority areas or a State priority area—

(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptation of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

(B) the—

(i) conduct of studies and analyses;

(ii) gathering of information;

(iii) development of model policies, and procedures; and

(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers,

in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities;

(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally

applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptation of generic services for persons with developmental disabilities;

(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in the area, including access to specialized services or special adaptations of generic services for persons with developmental disabilities;

(E) the training of persons with developmental disabilities, family members of persons with developmental disabilities, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities; and

(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

(11) The term "Federal priority areas" means community living activities, employment activities, child development activities, and case management activities.

(12) The term "State priority area" includes, at the discretion of the State Planning Council, priority area activities in two or more Federal priority areas or priority area activities in an area in the State considered essential by the State Planning Council.

(13) The term "community living activities" means such priority area activities as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including nonfinancial supports).

(14) The term "employment activities" means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

(15) The term "supported employment" means competitive work in integrated work settings—

(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need ongoing support services to perform such work.

(16) The term "child development activities" means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

(17) The term "case management activities" means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and

services and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity and integration into the community is attained.

[(12)] *(18)* The term "satellite center" means a public or private nonprofit entity which—

(A)(i) is affiliated with one or more university affiliated [facilities] *programs;*

(ii) functions as a community or regional extension of such university affiliated [facility or facilities] *program or programs* in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available; and

(iii) may engage in the activities described in subparagraph (A), (B), or (C) of paragraph (13); or

(B) is affiliated with one or more university affiliated [facilities] *programs* and which provides for at least—

(i) interdisciplinary training for personnel concerned with the provision of direct or indirect services to persons with developmental disabilities; and

(ii) dissemination of findings relating to the provision of services to persons with developmental disabilities.

[(13)] *(19)* The term "university affiliated [facility] *program* means a [public or nonprofit facility] *program operated by a public or nonprofit private entity* which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

(A) Interdisciplinary training for personnel concerned with developmental disabilities, *including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers* which is conducted at [the facility] *a facility* and through outreach activities.

(B) Demonstration of—

(i) exemplary services relating to persons with developmental disabilities in settings which are integrated in the community; and

(ii) technical assistance to generic and specialized agencies to provide services to increase the independence, productivity, and integration into the community of persons with developmental disabilities, such as the development and improvement of quality assurance mechanisms.

(C) (i) Dissemination of findings relating to the provisions of services under subparagraph (B) of this paragraph, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research which would provide data and information that will assist in increasing the independence, productivity, and integration into the community of persons with developmental disabilities.

[(14)] *(20) The term "Secretary" means the Secretary of Health and Human Services.*

[(15)] *(21) The term "State Planning Council" means a State Planning Council established under section 124.*

(22) The term "family support services" means services designed to—

(A) strengthen the family's role as primary caregivers (including the role of the elderly parent);

(B) prevent inappropriate out of the home placement and maintain family unity; and

(C) reunite families with members who have been placed out of the home.

Such term includes respite care, personal care, parent training and counseling, and other individualized services.

(23) The term "assistive technology" means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements.

(24) The term "early intervention services" has the meaning given to such term by section 672(2) of the Education of the Handicapped Act.

FEDERAL SHARE

SEC. 103. (a) The Federal share of all projects in a State supported by an allotment to the State under part B may not exceed 75 percent of the aggregate necessary costs of all such projects, as determined by the Secretary, except that in the case of projects located in urban or rural proverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects, as determined by the Secretary.

(b) The Federal share of any project to be provided through grants under part D may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined.

(c) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

(d) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part B or by a university affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part D.

RECORDS AND AUDITS

SEC. 104. (a) Each recipient of assistance under this title shall keet such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the

project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers and records of the recipients of assistance under this title that are pertinent to such assistance.

RECOVERY

SEC. 105. If any facility with respect to which funds have been paid under part B or D shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by the Secretary, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

STATE CONTROL OF OPERATIONS

SEC. 106. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

SEC. 107. (a) By January 1 of each year, the State Planning Council of each State shall prepare and transmit to the Secretary a report concerning activities carried out during the preceding fiscal year with funds paid to the State under part B for such fiscal year. Each such report shall be in a form prescribed by the Secretary by regulation and shall contain—

(1) a description of such activities and the accomplishments resulting from such activities;

(2) a comparison of such accomplishments with the goals, objectives, and proposed activities specified by the State in the

State plan submitted under section 122 for such fiscal year; [and]

(3) an accounting of the manner in which funds paid to a State under part B for a fiscal year were expended[.];

(4) a review and description of any action taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State and a description of the State Planning Council's response to such actions, reports, and plans; and

(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f).

(b) By January 1 of each year, each protection and advocacy system established in a State pursuant to part C shall prepare and transmit to the Secretary a report which describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year.

(c)(1) By April 1 of each year the Secretary shall prepare and transmit to the President, the Congress, and the National Council on the Handicapped a report which describes—

(A) the activities and accomplishment of programs supported under parts B, C, D, and E of this title; [and]

(B) the progress made in States in improving the independence, productivity, and integration into the community of persons with developmental disabilities and any activities or services needed to improve such independence, productivity, and integration[.];

(C) The progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under section 122(b)(3) and 122(f);

(D) the Federal fiscal and policy barriers to addressing the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

(E) the number of meetings held by the interagency committee established under section 108(b) during the period for which the report is made, which agencies were represented at each such meeting, and the name and title of each individual attending such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.

(2) In preparing the report required by this subsection, the Secretary shall use and include information submitted to the Secretary in the reports required under subsections (a) and (b) of this section.

RESPONSIBILITIES OF THE SECRETARY

SEC. 108. (a) The Secretary, not later than one hundred eighty days after the date of enactment of any Act amending the provisons of this title, shall promulgate such regulations as may be required for the implementation of such amendments.

(b) Within ninety days after the date of enactment of the Developmental Disabilities Act of 1984, the Secretary of Health and Human Services and the Secretary of Education shall establish an interagency committee composed of representatives of the Administration for Developmental Disabilities of the Department of Health and Human Services, the Office of Special Education and Rehabilitative Services of the Department of Education, the Department of Labor, and such other Federal departments and agencies as the Secretary of Health and Human Services and the Secretary of Education consider appropriate. Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for persons with developmental disabilities.

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 109. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individual by the provisions of the Rehabilitation Act of 1972 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 110. Congress make the following findings respect the rights of persons with developmental disabilities—

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the development potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure the public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relative of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 1, 1974 (30 Fed. Reg. pt. II) as appropriate when taking into account the size of the institution and the service delivery arrangement of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential program, which assure the care provided by such programs is appropriate to the persons served by the programs.

The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.

PART B—FEDERAL ASSISTANT FOR PLANNING [AND SERVICE] *PRIORITY AREA*, ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

[PURPOSE]

[SEC. 121. The purpose of this part is to provide payments to States to plan for, and to conduct, activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.]

PURPOSE

SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with development disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.

STATE PLAN

SEC. 122. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

(b) In order to be approved by the Secretary under this section, a State plan [for the provision of services for persons with developmental disabilities] must meet the following requirements:

(1) [(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 124, for the assignment to the Council of personnel in such numbers and with such qualification as the Secretary determines to be adequate to enable the Council to carry out its duties under this title, and for the identificaion of the personnel so assigned.]

(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.

[(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise.).]

(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the "designated State agency"). Except as provided in subsection (e), the designated State agency may be—

(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

(C) The plan must provide that [each] *the* State agency designed under subparagraph (B) will keep such records and afford such access thereto as the Secretary or the State Planning Council finds necessary.

(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

(2) The plan must—

(A) set out the specific objective to be achieved under the plan and a listing of the programs, *activities,* and resources to be used to meet such objectives;

(B) set for the non-Federal share that will be required in carrying out each such objective and program;

(C) describe (and provide for the review annually and revision of the description not less often than once every three years) [(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and] *(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts and for which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, and comprehensive health and mental health, and such other plans as the Secretary may specify, and* (ii) how funds alloted to the State in accordance with section 125 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for Federal assistance under such other State programs;

(D) for each fiscal year, assess and describe the extent and scope of the [priority services being or to be provided] *Federal and State priority areas which are addressed or which will be addressed* under the plan in the fiscal year; and

(E) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

(3) The plan must describe a process and timetable for the completion, by April 1, 1990, by the State Planning Council in the State, or the reviews, analyses, and final report described in subsection (f).

[3] *(4)* The plan must contain or be supported by assurances satisfactory to the Secretary that—

(A) the funds paid to the State under section 125 will be used to make a significant contribution toward [strengthening services for] *enhancing the independence, productivity, and integration into the community of* persons with developmental disabilities through agencies in the various political subdivisions of the State;

(B) part of such funds will be make available by the State to public or nonprofit private entities;

(C) not more than 25 percent of such funds will be allocated to the agency [or agencies] designated under section 122(b)(1)(B) for the provision of services by such agency [or agencies];

(D) such funds paid to the State under section 125 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

(E) there will be reasonable State financial participation in the cost of carrying out the State plan.

[(4)] *(5)*[(A) The plan must provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four priority services.]

(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum include—

(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to mental impairment, and persons with developmental disabilities attributable to a combination of physical and mental impairments;

(ii) an analysis of criteria for eligibility for services that may be causing persons with developmental disabilities to be excluded from receiving such services;

(iii) an analysis of services, technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

(iv) an analysis of existing and projected fiscal resources;

(v) an analysis of any other issues identified by the State Planning Council; and

(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.

[(B) The plan must provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Developmental Disabilities Act of 1984, and the timely review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of services for persons with developmental disabilities as follows:

[(i)(I) Except as provided in subclause (II), the plan shall provide for the provision of at least one but not more than two priority services.

[(II) In fiscal year 1987, the plan may provide for the provision of three priority services.

[(ii) For any fiscal year after fiscal year 1986 for which the total appropriations under section 130 are at least $50,250,000, the plan shall provide for the provision of employment related activities among the priority services to be provided under the plan.

[(iii) At the option of the State, the plan may provide for the provision of one or more additional services for persons with developmental disabilities from the services described in section 102(11)(A)(ii).

[(C) Notwithstanding the requirements of subparagraph (B), upon the application of a State, the Secretary, pursuant to regulation which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of services to be expended under the State plan for service activities in additional services if the Secretary determines that the expenditures of the State of service activities in the initially specified services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the priority areas.

[(D) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the Education of the Handicapped Act.]

[(E)] *(B)*(i) The plan must provide that not less than 65 percent of the amount available to the State under section 125 will be expended for [service activities in the priority services] *activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (A), and the implementation of paragraph (3) of subsection (f).*

(ii) The plan must provide that the remainder of the amount available to the State from allotments under section 125 (after making the expenditures required by clause (i) of this paragraph) shall be used for [service activities for persons with developmental disabilities, and] the planning, coordination, and administration of *priority area activities for,* and the advocacy for, [the provision of such services] *persons with developmental disabilities.*

[(F)] *(C)* The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designed as urban or rural poverty areas.

[(5)] *(6)*(A)(i) The plan must provide that [services furnished] *programs,* and the facilities in which they are [furnished] *operated,* under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

(ii) The plan must provide satisfactory assurances that buildings used in connection with the [delivery of services] *programs* assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968).

(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 123 (relating to habilitation plans).

(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or rehabilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

(E) The plan must provide assurances that the State will provide the State Planning Council with a copy of each annual survey report and plan of correction for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State within 30 days after the completion of each such report or plan.

[(6)] *(7)*(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangements services, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

[(7)] *(8)* The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved

under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for the total expenditures for such purposes by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the previous fiscal year.

(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was the designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general public and the nonagency members of the State Planning Council with respect to the designation of such State agency and after the Governor has made an independent assessment of the impact the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons wih developmental disabilities.

(3) If the Governor of a State determines not to retain the designation of a designated State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, redesignate such agency in accordance with the requirements of subsection (b)(1)(B).

(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any redesignation of a designated State agency shall be made in accordance with the requirements of subsection (b)(1)(B).

(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provides public assistance) which impact or which potentially impact on the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal

and State funds by, each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency and their families, if appropriate.

(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

(C) prepare recommendations on how to remove barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provisions and coordination of such services.

(4) By April 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning—

(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairments, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

(B) the steps to be taken to include the data and recommendations obtained, through the conduct of the reviews and analyses under paragraphs (1) and (2) and the preparation of the report required by this paragraph, in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

(5) By April 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By September 30, 1990, the Secretary shall transmit a summary of such report to the appropriate committees of the Congress.

HABILITATION PLANS

SEC. 123. (a) The Secretary shall require as a condition to a State's receiving an allotment under this part that the State provide the Secretary satisfactory assurances that each program (in-

cluding programs of any agency, facility, or project) which receives funds from the State's allotment under this part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

(1) The plan shall be in writing.

[(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.]

(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established.

(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such goals should include the increase or support of independence, productivity, and integration into the community for the person. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral and other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a [program coordinator who will be responsible for] *case manager who will be responsible for coordinating* the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

[(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.]

(c) Each habilitation plan shall be reviewed, and where necessary, revised, at least annually by the persons for whom the plan is estab-

lished and the person's parents or guardian or other representative and the agency primarily responsible for the delivery of services to the person for whom the plan was established or each agency responsible for the coordination of the delivery of services to such person.

STATE PLANNING COUNCILS

SEC. 124. [(a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of that State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated facility or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services to persons with developmental disabilities in that State.

[(2) At least one-half of the membership of each such Council shall consist of persons who—

[(A) are persons with developmental disabilities or parents or guardians of such persons, or

[(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

[(3) Of the members of the Council described in paragraph (2)—

[(A) at least one-third shall persons with developmental disabilities, and

[(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.]

(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities.

(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

(A) are persons with developmental disabilities;

(B) are parents or guardians of such persons; or

(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

(5) Of the members of the State Planning Council described in paragraph (4)—

(A) at least one-third shall be persons with developmental disabilities,

(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

[(b)**]***(d)* Each State Planning Council shall—

(1) develop jointly with the State agency **[**or agencies**]** designated under section 122(b)(1)(B) the State plan required by this part**[**, including the specification of services under section 122(b)(4)(B)**]**;

(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

STATE ALLOTMENTS

SEC. 125. (a)(1) For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 130 among the States on the basis of—

(A) the population,

(B) the extent of need for services for persons with developmental disabilities, and

(C) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 122 for the provision under such plans of services for persons with developmental disabilities.

(2) Adjustments in the amounts of State allotments based on subparagraphs (A), (B), and (C) of paragraph (1) may be made not more often than annually. The Secretary shall notify States of any adjustment made not less than six months before the beginning of the fiscal year in which such adjustment is to take effect.

(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than [$100,000] *$160,000*, and

(ii) to any other State may not be less than the greater of [$250,000] *$300,000*, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1984.

(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

(4) In any case in which amounts appropriated under section 130 for a fiscal year exceed [$47,000,000] *$60,000,000*, the allotment under paragraph (1) for such fiscal year—

(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the

Trust Territory of the Pacific Island may not be less than [$160,000] *$200,000*; and

(B) to each of the several States, Puerto Rico, or the District of Columbia, may not be less than [$300,000] *$350,000*.

(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

(6) In any case in which the total amount appropirated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

(B) the total amount appropriated under section 130 for the immediately preceding fiscal year, bears to the total amount appropriated under section 130 for such preceding fiscal year.

[(b) Whenever the State plan approved in accordance with section 122 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.]

(b) In any case in which a State does not expend by the end of a fiscal year the total amount of its allotment under this section for such fiscal year, the State may expend not more than 20 percent of such total amount during the fiscal year immediately succeeding such fiscal year. Any amounts expended from such allotment during such succeeding fiscal year shall be expended in accordance with the requirements of this part and the State plan submitted under this part.

(c) Whenever the State plan approved in accordance with section 122 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allot-

ted shall be available for reallotment by the Secretary from time to time, on such date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES

SEC. 126. From each State's allotments for a fiscal year under section 125, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustment as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES

SEC. 127. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency designated pursuant to section 122(b)(1) finds that—

(1) there is a failure to comply substantially with any of the provisions required by section 122 to be included in the State plan; **[**or**]**

(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part**[**,**]**; *or*

(3) there is a failure to implement the State plan or the regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State Council and agency or agencies that, *with respect to a violation of clause (1) or clause (2) of this section,* further payments will not be made to the State under section 125 (or, in the discretion of the Secretary, that further payments will not be made to the State under section 125 for activities in which there is **[**such failure**]** *a failure to comply with clause (3) of this section*), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payment to the State under section 125, or shall limit further payment under section 125 to such State to activities in which there is no such failure.

NONDUPLICATION

SEC. 128. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 122, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 125, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

APPEALS BY STATES

SEC. 129. If any State is dissatisfied with the Secretary's action under section 122(c) or section 127, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order of the Secretary. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify the previous action of the Secretary, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 130. For allotments under section 125, there are authorized to be appropriated $50,250,000 for fiscal year 1985, $53,400,000 for fiscal year 1986, and $56,500,000 for fiscal year 1987.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 130. For allotments under section 125, there are authorized to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.

PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

PURPOSE

SEC. 141. It is the purpose of this part to provide for allotments to support a system in each State to protect the legal and human rights of persons with developmental disabilities in accordance with section 142.

SYSTEM REQUIRED

SEC. 142. (a) In order for a State to receive an allotment under part B—

(1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities;

(2) such system must—

[(A) have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State and to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;]

(A) have the authority to—

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and

(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;

[(B)] *(E)* not be administered by the State Planning Council; and

[(C)] *(F)* be independent of any agency which provides treatment, services, or habilitation to persons with developmental disabilities; and

[(D)] *(G)* except as provided in subsection (b), be able to obtain access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities if—

[(i) a complaint has been received by the system from or on behalf of such person; and

[(ii) such person does not have a legal guardian or the State or the designee of the State is the legal guardian of such person;]

(G) have access to all records of—

(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person has authorized the system to have such access; and

(ii) any person with developmental disabilities—

(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;

(3) the State must provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;

(4) the State must provide assurance to the Secretary that such system will be provided with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in the State within 30 days after the completion of each such report or plan; and

(5) the State must provide assurances satisfactory to the Secretary that the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless notice has been given of the intention to make such redesignation to persons with developmental disabilities or their representatives.

[(b) Prior to October 1, 1986, the provisions of paragraph (2)(D) of subsection (a) shall not apply to any State in which the laws of the State prohibit the system required under such subsection from obtaining access to the records of a person with developmental disabilities under the conditions described in such paragraph.]

[(c)] *(b)*(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the amounts appropriated under section 143. Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsection (a)(1) and subsection (d) of section 125, except that in any case in which—

(A) the total amount appropriated under section 143 for a fiscal year is at least [$11,000,000] *$20,000,000*—

(i) the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than [$80,000] *$107,000,* and

(ii) the allotment to each of the several States, Puerto Rico, and the District of Columbia for such fiscal year shall not be less than [$150,000] *$200,000;*

(B) the total amount appropriated under section 143 for a fiscal year is less than [$11,000,000] *$20,000,000,* the allotment to each State (other than Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) shall not be less than [$50,000] *$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $80,000.*

(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is made, minus

(B) the total amount appropriated under section 143 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 143 for such preceding fiscal year.

[(2)] *(3)* A State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under subsection (a).

[(3)] *(4)* Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments to be made in accordance with such paragraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 143, the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amount appropriated for that year under section 143 bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

(c) If, for any fiscal year, the total amount of a State's allotment under this section exceeds the total amount of the State's allotment under this section for the fiscal year preceding such fiscal year by an amount equal to or in excess of 20 percent of the State's allotment under this section for such preceding fiscal year, the State may use not more than 10 percent of its allotment under this section for

such fiscal year for activities under this section in the fiscal year succeeding such fiscal year.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 143. For allotments under section 142, there are authorized to be appropriated $13,750,000 for fiscal year 1985, $14,600,000 for fiscal year 1986, and $15,500,000 for fiscal year 1987. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 143. For allotments under section 142, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $22,000,000 for fiscal year 1989, and $24,200,000 for fiscal year 1990.

PART D—UNIVERSITY AFFILIATED [FACILITIES] *PROGRAMS*

PURPOSE

SEC. 151. The purpose of this part is to provide for grant to university affiliated [facilities] *programs* to assist in the provision of interdisciplinary training, [the conduct of service demonstration programs] *the demonstration of exemplary services and technical assistance*, and the dissemination of information which will increase and support the independence, productivity, and integration in the community of persons with developmental disabilities.

GRANT AUTHORITY

SEC. 152. (a) From appropriations under [section 154] *section 154 (a)*, the Secretary shall make grant to university affiliated [facilities] *programs* to assist in the administration and operation of the activities described in [section 102(13)] *section 102(19)*.

[(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

[(1) Conducting—

[(A) a study of the feasibility of establishing a university affiliated facility or a satellite center in an area not served by a university affiliated facility, including an assessment of the needs of the area for such a facility or center; or

[(B) a study of the ways in such university affiliated facility, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can assist in establishing one or more satellite centers which would be located in areas not served by university affiliated facility.

A study under subparagraph (A) or subparagraph (B) shall be carried out in consultation with the State Planning Council for the State in which the university affiliated facility conducting the study is located and the State Planning Council for the State in which the university affiliated facility or satellite center would be established.

[(2) Provision of service-related training to parents of persons with developmental disabilities, professionals, volunteers, or other personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

[(3) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.]

(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as defined in paragraph (2)), programs for elderly persons with developmental disabilities (as defined in paragraph (3)), and community-based service programs (as defined in paragraph (4)).

(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide direct sup-

port and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

(c) From amount appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities

(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services.

[(c)] *(d)* The Secretary may make a grant to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. A satellite center which receives a grant under this section may engage in the activities described in subparagraph (A), (B), or (C) of [section 102(13)] *section 102(19) and may compete for grants under subsection (b) and (c).*

[(d)(1) The Secretary may not make a grant under subsection (c) for the fiscal year ending on September 30, 1985, to a satellite center which has not received a grant under such subsection or section 121(c) (as such section was in effect prior to October 1, 1984) unless—

[(A) a study assisted under subsection (b)(1)(A) of ths section has established the feasibility of establishing or operating such center, except that such study shall not be required to contain an assessment of the need for such center in the area in which such center will be located; or

[(B) a study assisted under section 121(b)(1) (as in effect prior to October 1, 1984) has established the feasibility of establishing or operating such center.

[(2) The Secretary may not make a grant under subsection (a) or subsection (c) for a fiscal year beginning after September 30, 1985, to a university affiliated facility or a satellite center which has not received a grant under this section or section 121 (as such section was in effect prior to October 1, 1984) unless—

[(A) a study assisted under subsection (b)(1)(A) has been conducted with respect to such facility or center by a university affiliated facility; and

[(B) such study has established the feasibility of establishing or operating such facility or center.]

(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the universtiy is located for such a program or center. The amount of a grant under this subsection may not exceed $35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.

APPLICATIONS

SEC. 153. (a) Not later than six months after the date of the enactment of the Developmental Disabilities Act of 1984, the Secretary shall establish by regulaiton standards for university affiliated [facilities] *programs.* Such standards shall reflect the special needs of *all* persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in [section 102(13)] *section 102(19).*

(b) No grants may be made under [section 152] *section 152(a)* unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurance that—

(1) the making of grants will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds;

(2)(A) the applicant's [facility] *program* is in full compliance with the standards established under subsection (a), or

(B)(i) the applicant [is making] *will make* substantial progress toward bringing the [facility] *program* into compliance with such standards, and (ii) the [facility] *program* will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a) whichever is later, fully comply with such standards; [and]

(3) the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled)[.];

(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.

(c) The Secretary shall establish such a process for the review of applications for grants under [section 152] *section 152(a)* as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's [facility] *program* reviews the application.

(d)(1) If the total amount appropriated under [section 154] *section 154(a)* for a fiscal year is at least $8,500,000, the amount of any grant under section 152(a) to a university affiliated [facility] *program* shall not be less than [$175,000] *$200,000* for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than [$75,000] *$150,000* for such fiscal year.

(2) If the total amount appropriated under [section 154] *section 154(a)* is less than $8,500,000, the amount of any grant under section 152(a) to a university affiliated [facility] *program* shall not be less than $150,000 for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than $75,000 for such fiscal year.

(3) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year. Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 154. For the purpose of making grants under section 152, there are authorized to be appropriated $9,000,000 for fiscal year 1985, $9,600,000 for fiscal year 1986, and $10,100,000 for fiscal year 1987.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 154. (a) For the purpose of grants under section 152(a), there are authorized to be appropriated $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $4,500,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, and $5,500,000 for fiscal year 1990.

(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).

[PART E—SPECIAL PROJECT GRANTS]

PART E—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

SEC. 161. The purpose of this part is to provide for grants [or demonstration projects] *and contracts for projects of national significance* to increase and support the independence, productivity, and integration into the community of persons with development disabilities.

GRANT AUTHORITY

SEC. 162. (a) The Secretary may make grants to *and enter in to contracts with* public or nonprofit private entities for—

[(1) demonstration projects—

[(A) which are conducted in more than one State,

[(B) which involve the participation of two or more Federal departments or agencies, or

[(C) which are otherwise of national significance, and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including Native Americans, Native Hawaiians, and other underserved groups); and]

(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal interagency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and

(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving *the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and* protection and advocacy services relating to the State protection and advocacy system described in section 142.

Projects for the evaluation and assessement of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraph (A), (B) and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secre-

tary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 122, and unless the application provides assurances that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under projects assisted under this part will be protected consistent with section 110 (relating to the rights of the developmentally disabled). The Secretary shall provide to the State Planning Council [for each] *in such* State [in which an applicant's project will be conducted] an opportunity to review the application for such project and to submit its comments on the application.

(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register not less than 30 days after the close of the comment period.

[(c)] *(d)* Payments under grants under subsection (a) may be made in advance or by way of reimbursement and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 163. To carry out this part, there are authorized to be appropriated $2,700,000 for fiscal year 1985, $2,800,000 for fiscal year 1986, and $3,100,000 for fiscal year 1987.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 163. (a) To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1988, $3,650,000 for fiscal year 1989, and $3,650,000 for fiscal year 1990.

(b) Of the amounts appropriated under subsection (a) for any fiscal year, $600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

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